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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/742,571	12/20/2000	Stephen J. Boies	YOR920000310 (1963-5012)	8516
28062	7590	08/13/2004	EXAMINER	
BUCKLEY, MASCHOFF, TALWALKAR LLC 5 ELM STREET NEW CANAAN, CT 06840			ZHONG, CHAD	
			ART UNIT	PAPER NUMBER
			2152	

DATE MAILED: 08/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/742,571	<b>Applicant(s)</b> BOIES ET AL.	
	<b>Examiner</b> Chad Zhong	<b>Art Unit</b> 2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**FINAL ACTION**

1. This action is responsive to communications: Amendment, filed on 07/21/2004. This action has been made final.

2. Claims 1-37 are presented for examination. In amendment A, filed on 07/21/2004:

Claims 1, 3-8, 10-17, 20, 21, 24-26, 28-30, 32, and 34-36 are amended.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371 (c) of this title before the invention thereof by the applicant for patent.

5. Claims 1-7, 9-15, 17, 19-21, 23, 24, 26-37 are rejected under 35 U.S.C. 102(e) as being anticipated by Oliver et al. (hereinafter Oliver), US 2002/0133412.

6. As per claim 1, Oliver teaches a method for dynamically reconfiguring a proxy server network to deliver content by dynamically selling extra capacity, comprising the steps of:

determining unused capacity on the proxy server network for a period of time (pg 4, [0077], lines 4-8; pg 5, [0100], lines 9-10, lines 16-17);

selling the said unused capacity for a specified period of time to web sites or other service providers which need additional capacity (pg 6, [0120], lines 5-13);

using said unused capacity to serve requests to the said web sites or other service providers purchasing the extra capacity for said period of time (pg 6, [0120], lines 5-13).

7. As per claim 2, Oliver teaches the method of claim 1, wherein the selling method of the unused capacity can be through market-based mechanisms (pg 2, [0037]).

8. As per claim 3, Oliver teaches the method of claim 1, comprising the additional step of providing a controller to monitor and control traffic from the web sites or other service providers to be within the limit of the capacity purchased (pg 5, [0113]; pg 14, [0332]).

9. As per claim 4, Oliver teaches the method of claim 3, wherein said controller uses a domain name server based approach wherein the domain name server performs the name to address mapping for assigning the request to proxy servers of the proxy server network (pg 5, [0113]).

10. As per claim 5, Oliver teaches the method of claim 4, wherein the said domain name server based approach makes the domain name server of the proxy server network a primary domain name server, which is the only domain name server that can assign names to the proxy servers (pg 5, [0113]).

11. As per claim 6, Oliver teaches the method of claim 5, wherein said domain name server based approach further comprises the steps of:

the domain name server of the purchaser World Wide Web site routing the name to address map of said purchaser World Wide Web site to said domain name server of the proxy network (pg 5, [0113]; pg 10, [0249]-[0260]); and

said primary domain name server mapping a fraction of the received mapping requests to servers in the proxy network based on an amount of unused capacity purchased (pg 10, [0261]; pg 11, [0275], lines 15-19).

12. As per claim 7, Oliver teaches the method of claim 6, wherein mapping requests which were not mapped to servers in the proxy network are returned by said primary domain name server to said domain name server of the purchaser World Wide Web site to be mapped to a server of

the purchaser's World Wide Web site (pg 6, [0120], lines 11-13; pg 17, [0390]).

13. As per claim 9, Oliver teaches the method of claim 1, wherein said unused capacity can be based on an estimate of the usage of the proxy server network over time and said unused capacity can be provided based on the best efforts of the proxy server network (pg 4, [0081], [0082]; pg 10, [0265], [0267]; pg 11, [0275], lines 15-19).

14. As per claim 10, Claim 10 is rejected for the same reasons as rejection to claim 3 above.

15. As per claim 11, Claim 11 is rejected for the same reasons as rejection to claim 4 above.

16. As per claim 12, Claim 12 is rejected for the same reasons as rejection to claim 5 above.

17. As per claim 13, Claim 13 is rejected for the same reasons as rejection to claim 6 above.

18. As per claim 14, Oliver teaches the method of claim 13,, wherein said domain server of the proxy network monitors a load level on the proxy servers to adjust said fraction based on said unused capacity on the proxy server at any given time (pg 10, [0267]; pg 6, [0133]).

19. As per claim 15, Claim 15 is rejected for the same reasons as rejections to claim 7 above.

20. As per claim 17, Oliver teaches the method of claim 9, wherein said financial charge will be based on the purchaser World Wide Web site's actual usage of the unused proxy capacity (pg 11, [0275], lines 15-19).

21. As per claim 19, Oliver teaches the method of claim 2, wherein the selling method consists of selling the unused proxy capacity through a real-time continuous market (pg 4, [0077]; pg 3, [0039]).

22. As per claim 20, Oliver teaches the method of claim 5, wherein said controller sets the fraction of

requests to be served by the proxy network, comprising the steps of:

setting an initial value based on a number provided by the purchaser World Wide Web site on the fraction of total requests needed to be routed to the proxy servers (pg 10, [0256]);

monitoring an actual number of World Wide Web object requests served by the proxy servers (pg 10, [0267]; pg 6, [0133]);

adjusting the fraction of World Wide Web object requests served so that the actual number of World Wide Web object requests served does not use more proxy server capacity than was purchased (pg 10, [0261]; pg 11, [0275], lines 15-19; pg 5, [0100], lines 9-17).

23. As per claim 21, Claim 21 is rejected for the same reason as rejection to claim 7 above.

24. As per claim 23, Oliver teaches the method of claim 5, wherein said controller sets the fraction of requests to be served by the proxy network, comprising the steps of:

setting an initial value based on an estimate provided by the purchaser World Wide Web site on the fraction of total requests needed to be routed to the proxy servers (pg 10, [0256], [0255], [0265]);

monitoring the actual number of World Wide Web object requests served by the proxy servers (pg 10, [0267]; pg 6, [0133]);

adjusting the fraction of World Wide Web object requests served so that the actual number of World Wide Web object requests served does not use more proxy server capacity than was purchased (pg 10, [0261]; pg 11, [0275], lines 15-19; pg 5, [0100], lines 9-17).

25. As per claim 24, Claim 24 is rejected for the same reason as rejection to claim 7 above.

26. As per claims 26 and 32, Claim 26 and 32 are rejected for the same reason as rejection to claim 1 above.

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27. As per claims 27 and 33, Claims 27 and 33 are rejected for the same reasons as rejection to claim 2 above.

28. As per claims 28 and 34, Claims 28 and 34 are rejected for the same reasons as rejection to claim 3 above.

29. As per claims 29 and 35, Claims 29 and 35 are rejected for the same reasons as rejection to claim 4 above.

40. As per claims 30 and 36, Claims 30 and 36 are rejected for the same reasons as rejection to claim 5 above.

41. As per claim 31 and 37, Claims 31 and 37 are rejected for the same reasons as rejection to claim 6 above.

*Claim Rejections - 35 USC § 103*

41. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

42. Claims 8, 16, 18, 22, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oliver et al. (hereinafter Oliver), US 2002-0133412, in view of 'Official Notice'.

42. As per claim 18, Oliver does not teach the method of claim 2, wherein said selling method consists of selling the unused proxy capacity through an auction. However 'Official Notice' is taken by the Examiner that an online auction is notoriously well known. It would have been obvious to have used an online auction for the current invention, because doing so would make the current system more



profitable, with the business framework already in place (i.e. credit card service, among various billing services), an online auction would be an economical choice to promote the service.

42. As per claims 8, 16, 22, and 25, Oliver does not teach wherein mapping requests which were not mapped to servers in the proxy network are assigned by said primary domain name server to servers in the purchaser World Wide Web site using an assignment algorithm provided by said domain name server of the purchaser World Wide Web site. However 'Official Notice' is taken by the Examiner that an assignment algorithm is notoriously well known. It would have been obvious to have used an assignment algorithm for the current invention, because doing so would be less burdening for the purchaser of World Wide Web units, through the use of assignment algorithm for alleviate processing needed on the purchaser side, thereby improving efficiency and speed. Furthermore, usage of alphanumeric numbers identifying individual users (pg 10, [0249]) would be used for similar purposes as the assignment algorithm, thus providing the proxy side domain name service with the capability to return unused data request back to their respective originator.

### *Conclusion*

43. Applicant's remarks filed 07/21/04 have been considered but are found not persuasive.

44. In the remark, the Applicant argued in substance that Oliver contains no teach whatsoever concerning sales of excess capacity from a server network to serve requests made to another server network.

In response to Applicant's amendment, Oliver does teach the above limitation.

Referring to [0036-0037] on page 2, Oliver gives examples of what is incorporated by the term 'resources', Network or Internet Service Providers (hereinafter ISP) were mentioned among the list. It is well known in the art that Network/ISP have limited capacity, the internet access service which they

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provide runs on finite amount of bandwidth or capacity. Thus resources and capacity is used interchangeably. Although the term “capacity” was not physically mentioned within Oliver, its meaning is well written and expressed through out the publication. Oliver teaches the system of selling services/capacity and charging the clients for such services. Thus, Oliver teaches sales of excess capacity from a server network to serve requests made to another server network.

45. In the remark, the Applicant argued in substance that Oliver does not teach or suggest a controller to limit traffic from other web sites to an amount of capacity that has been purchased.

In response to Applicant’s amendment, Oliver does teach the above limitation.

Referring to pg 14, [0332], Oliver teaches the notion of credit(x) which is the amount of resources/capacity purchased by the end user, if credit(x) falls below a certain threshold, server stops servicing its services/capacity. Thus Oliver teaches the notion of controller limiting amount of traffic based on amount of services/capacity purchased.

46. In the remark, the Applicant argued in substance that Oliver does not teach or suggest the domain name server of the purchaser World Wide Web (hereinafter WWW) site routing the name to address map of said purchaser WWW site to said domain name server of the proxy network and said primary domain name server mapping a fraction of the received mapping requests to servers in the proxy network based on an amount of unused capacity purchased.

In response to Applicant’s amendment, Oliver teaches the above limitation.

Referring to [0023], [0031], [0032], [0113], domain name service is explicitly mentioned within these sample sections, moreover, to route across different domains under WWW, one must have DNS in place to route name-to-address map/data from source to destination and vice-versa.

**THIS ACTION IS MADE FINAL.** Applicant is reined of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

47. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents and publications are cited to further show the state of the art with respect to

“Dynamic Proxy Reconfiguration Method To Support Sharing Of Extra Capacity”

- i. US 5935248 Stern et al.
- ii. US 6154211 Kamachi et al.
- iii. JP 11-032085 Tunnicliffe et al.
- iv. Proceedings of the 19<sup>th</sup> International Conference for the Management and Performance Evaluation of Enterprise Computing Systems. “Client server capacity planning challenges”, Major, Joseph B. 1994.
- v. “WebOS: Operating system services for wide area applications”, Vahdat et al. 1998
- vi. “Value added IP Services in a Wholesale Environment.” Cosine Communications, 1998.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chad Zhong whose telephone number is (703) 305-0718. The examiner can normally be reached on M-F 7am-4:30pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John A Follansbee can be reached on 703-305-8498. The fax phone numbers for the organization where this

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application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

CZ  
August 4, 2004



JOHN FOLLANSBEE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100